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# World Chronicle

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## ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Professor Philip Alston, Chairman of the United Nations Committee on Economic, Social and Cultural Rights reviews the status of these rights. He explains how the Committee monitors the progress made by state parties to the International Covenant on Economic, Social and Cultural Rights in protecting these rights. Many countries have not ratified the covenant and therefore do not recognize these them. Professor Alston believes that cultural rights should not be observed if they violate other human rights.

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**ANNOUNCER:** From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

**LITTLEJOHNS:** I'm Michael Littlejohns, and this is **World Chronicle**.

Fifty years ago, the United Nations General Assembly adopted and declared the Universal Declaration of Human Rights. Article 22 of the Declaration states that every member of society is entitled to the realization of his/her economic, social and cultural rights. And to ensure the realization and the protection of these rights, the world community, in 1985, established the Committee on Economic, Social and Cultural Rights.

Our guest today is an expert on international law and human rights. He is Professor Philip Alston, Chairman of the United Nations Committee on Economic, Social and Cultural Rights.

Joining me to talk with Professor Alston are Bhaskar Menon of *International Documents Review* and Afsane Bassir Pour of *Le Monde*. Professor Alston welcome to **World Chronicle**.

**LITTLEJOHNS:** Professor Alston, the Declaration of Human Rights, has been much mentioned as one of the great achievements of the United Nations. But in the implementation, some people might say that the UN's record has been rather spotty for political reasons, presumably. A lot of countries don't want the United Nations poking into, into their closets. And also, of course, the Charter prohibits intervention, interference in the internal affairs of Member States, and many states feel that what they do to their people is their concern and nobody elses business. What's your response to the criticisms of this rather spotty record?

**ALSTON:** Human rights is a slow business, basically. If you go back to look at any of the great human right documents, the US Bill of Rights, which outlawed slavery, the Americans were still fighting about that decades later. If you go back and dig to the Magna Carta, you will find that initially it took a very long time before the documents was really taken seriously. It's natural, once you get governments to commit themselves, they will do that abstractly but then when it starts to bite, they will start to try to resist Implementation is a slow process, there has been an awful lot to overcome in terms of resistance by governments, but I think we have come quite a long way.

**LITTLEJOHNS:** Has there been improvements in the last few years?

**ALSTON:** It's very hard to say. We know much more now about the sort of violations that are taking place. We have identified many more practices as being violations, things that we use to think were quite normal and nothing could be done about and now are classified as violations.

**MENON:** Like what for instance?

**ALSTON:** Well, one could look at in particular the situation of women. Yes, we even said in the UN Charter that women are equal and should be treated that way, but for decades we were able to tolerate outrageous violations against women rights.

**LITTLEJOHNS:** Well they still are outrageous violations of women's rights.

**ALSTON:** There are, but one of the great achievements of the Vienna and Beijing conferences were the recognition that women's rights are human rights.

**LITTLEJOHNS:** These were conferences on specifically on women's rights?

**ALSTON:** No. they were... the first was on human rights. And it seems rather banal, it seems shocking to us that you'd have to say that it is surprising that women's rights are human rights. But this came as a realization, it came as a shock.

**LITTLEJOHNS:** Do you find that surprising Afsane?

**BASSIR POUR:** Yes, outrageous! More than surprising. It's true.

**MENON:** What are you say? Before that the UN didn't consider women's rights human rights?

**ALSTON:** No, they were formally acknowledged as human rights, but if women were badly treated, if there was violence against women, if women received wages which were forty per cent of those of men, if they were denied all sorts of jobs, if they were consistently not given access to education even in primary levels, we thought well, this was unfortunate. It's a pity but it's not a human rights violation. Now we see things very differently.

**BASSIR POUR:** I'd like to speak about the committee of which you are a chairperson. The Committee on Economic, Social and Cultural Rights, this would probably seem like a very – like a naive question, but what are cultural rights of individuals?

**ALSTON:** Well like all human rights, there's both an individual and a collective dimension. It's ultimately the individual who exercises the right. It's all very well for me to share a culture with the three of you, but it's me who wants to express it, it's me who wants to wear the headband or whatever it is, so it does ultimately come down to an individual right. Even though the enjoyment of it is collective. As a group, but it's not just a group right.

**BASSIR POUR:** If a women in Somalia says it's my right to have genital mutilation, it's here right, that's her cultural right. She can do that?

**ALSTON:** No, we don't permit people to assert as cultural rights, rights which clearly violate other human rights. I could say that it is my cultural right to commit suicide on television, if I want to. I can do it but it's not a cultural right.

**BASSIR POUR:** Could you give me an example where – of what cultural rights are. I'm sorry to insist on this, I don't understand what it is.

**ALSTON:** Sure. we normally end up taking cultural rights in terms of violations of civil and political rights. In other words, you try to wear your tribal garb to work and someone says, I don't like that stupid outfit, take it off. You try to insist that school books be available in a particular language. You try to insist that films can be made not only in English and French or whatever but in your local language. And when those rights are suppressed, then it is a violation of your cultural rights.

**MENON:** So for instance, in the period of globalization when Western cultural products are flooding into the third world, where would you come and take them down on that particular issue? Which is a fairly one in a number of countries

**ALSTON:** It's true, but I think that is very much for individual communities and societies to work out for themselves. I agree with you that it's a problem – the extent of homogenization of culture – hopefully however, the new technologies will provide more opportunities, for small local groups to manifest their own cultural....

**MENON:** Could I ask you to take a few steps back and describe exactly what your committee does?

**ALSTON:** Sure.

**MENON:** And how does it go about...

**LITTLEJOHNS:** How many members are there of your Committee, by the way?

**ALSTON:** We are directly parallel to the better known human right committee which monitors civil and political rights. We have eighteen members from all from different countries of the world. We receive reports from governments about what they have done in relation to each of the economic, social and cultural rights. They include employment rights, the right to health, the right to food, right to basic shelter – those sort of rights. And what we do is to ask governments to tell us, precisely what they have done and more importantly, what they haven't done. What remains to be done.

**LITTLEJOHNS:** And you the members, do you serve in your personal capacity or as representatives of government?

**ALSTON:** Personal capacity. We are called in...

**MENON:** And you all are kind of lawyers, or do you have expertise in these areas you are judging governments on or countries on?

**ALSTON:** It would be a sad committee if it was composed entirely of lawyers. Happily, that is not at all the case. We have a variety of occupational backgrounds...

**MENON:** Like what, like what kind of...

**ALSTON:** The rapporteur of the committee who is extremely effective, is an anthropologist and an artist, for example. Yes, we have people with diplomatic backgrounds, we have a professor of economics, we have a former labor ministry official, we have a fairly wide range of backgrounds represented.

**BASSIR POUR:** Now, on economic rights, when the Security Council employs a sanction, economic sanctions on a country such as Iraq or a group of countries against Burundi. What can your committee do for individuals who are deprived of their economic rights, of the right to food, for example?

**ALSTON:** Well the committee doesn't have a complaint procedure in the sense that we don't get a complaint from an individual and then try to seek a resolution. We would like to have that procedure, but the UN, the countries of the UN haven't yet given us that procedure, we are asking for it. In terms of the broader issue of economic sanctions, early in December of 1997, we adopted a general comment, which is our most authoritative general statement as it were, saying that when governments, or UN Agencies, the Security Council, whoever, decide to impose economic sanctions, they can not simply forget about economic, social and cultural rights. We accept that under Chapter Seven of the Charter, the Council has the right to impose sanctions for appropriate reasons, but that in designing those sanctions, and in overseeing them, they must take account of the impact on economic, social and cultural rights of the affected population.

**MENON:** We know earlier on you said the better known human rights committee, and your Committee was set up about ten years after the Human Rights Committee was set up. Could you explain why that happened and why for instance, there is this kind of soft attitude to things like women's rights.

**ALSTON:** I think it is not only women rights, of course, there is a soft attitude to simply recognizing access to basic health care as a human right. Access to food as a human right, the temptation of a lot of governments unfortunately is to say well these things are desirable, but they are not human rights. And so, there has been reluctance to treat these rights on precisely the same basis as civil and political rights.

**MENON:** Could you answer the other questions which I asked, which is why did the UN take ten years to set up your Committee?

**ALSTON:** Well, originally, the covenant on Economic, Social and Cultural Rights proposed that the monitoring function would be performed by the Economic and Social Council. Which made sense in a way because that's the body in the UN that coordinates economic policy generally. But in fact, it's a group of government representatives and there is no way that a governmental group is going to monitor effectively, the behavior of other governments. They simply do a deal. They reach a consensus.

**MENON:** So from what you said, we are to understand that for instance, when the government of China for instance says, you know, we don't really believe in political rights till the economic and social situation is improved. Is that an argument you buy?

**ALSTON:** No. We insist very strongly that the two sets of rights must go together. Our biggest problem, in fact, is that on the other side that is not so readily accepted. There are many who say that civil and political rights can be promoted on their own, and inevitably, economic rights will follow. Now we reject that, but we also reject the opposite. You can not assume that just because you are promoting economic and social rights – respect for civil and political rights will follow. Both have to be promoted at the same time. And without one set, the other set doesn't get very far.

**BASSIR POUR:** Now on respect for economic rights for example, does your Committee interact with institutions like the World Bank?

**ALSTON:** We are trying to. The World Bank has not been overly enthusiastic about discussing human rights matters, I think that is now changing. I think Mary Robinson, as High Commissioner for Human Rights is changing the general approach, she's trying to reach out more systematically and I think the Bank, hopefully, will start to engage on a dialogue on these rights.

**BASSIR POUR:** Now you mentioned Mrs. Mary Robinson, from all the letters I have written, I've seen back and forth from you to the previous High Commissioner, it sounds as if you must be happy that Mrs. Robinson has taken over this job?

**ALSTON:** I think she has manifested a clear desire to do something effective in relation to economic, social and cultural rights. I think the first High Commissioner had a difficult position, he needed to consolidate the post, he needed to make sure governments wouldn't eliminate it, but he was as least for my liking, a little bit too cautious on most issues.

**BASSIR POUR:** What are the major difficulties that you think she will face?

**ALSTON:** I think it's a near impossible job because she on the one hand has to cooperate with governments, get their support, get their willingness to work with her. On the other hand, if she is going to have creditability she has to call a spade a spade. When there are human rights violations she can't say, well... things are not going quite as well as we might have hope. She's got to say the situation is unacceptable.

**MENON:** So how many in the ten years that your Committee has existed, how many countries have you examined?

**ALSTON:** Probably about eighty.

**MENON:** And the states parties are one... a hundred and thirty five.

**ALSTON:** A hundred and thirty seven.

**MENON:** Thirty seven.

**ALSTON:** Yes.

**MENON:** And so why do you only consider eighty, when you have so many members?

**ALSTON:** Well one of the big problems is to ensure that governments do report. Under these human right treaties, they accept an obligation to report, within two years of becoming a party and then every five years after that. But what we found is that a number of governments simply ratified and then don't do anything. What the committee on economic, social and cultural rights has done to combat that situation, is to begin insisting that if a government does not report, for a long period of time, we will simply examine the situation anyway.

**MENON:** On the basis of what?

**ALSTON:** On the ba... what we call all available information. This is in a way putting governments on notice because it means that in fact, the situation will be examined without the benefit to them, of their report. Being able to put their gloss on it. We simply take all information that we can get from the media, from NGO's from other UN sources. And that generally gives us a pretty good picture.

**MENON:** For instance, China....

**LITTLEJOHNS:** This is **World Chronicle**. Our guest is Professor Philip Alston, Chairman of the United Nations Committee on Economic, Social and Cultural Rights.

**MENON:** China just became a party to your Convention, became a member, is that right?

**ALSTON:** China has signed the Covenant, but not yet ratified.

**MENON:** Is there any time frame for ratification?

**ALSTON:** There isn't. The United States signed the Covenant under Jimmy Carter in 1978 and it has still not ratified. Now we very much hope that will not be the case with China and that they will move fairly speedily.

**MENON:** Why is it that the United States has not ratified? Is there any real reason for it? Or it's just lethargy?

**ALSTON:** No, the United States has manifested quite a hostility, I think it's fair to say, towards these rights. We've seen the United Nations, the United States rather, take a position in UNICEF, saying that there is no such thing as a right to clean drinking water, and insisting that a reference to that be omitted. In the lead up to the Housing Conference in 1996, the US....

**LITTLEJOHNS:** Which conference?

**ALSTON:** The Istanbul...

**LITTLEJOHNS:** Habitat. Yes. The urban....yes.

**ALSTON:** Habitat II Conference

**ALSTON:** The United States initially insisted on the deletion of every reference to a right to adequate housing. And when the Rome World Food Summit was meeting in November '96, again they insisted the right to adequate food should not be recognized. Now in both of those cases, happily, other countries prevailed, and the United States position was not accepted. But we see a continuing reluctance on the part of the United States to embrace the concept of economic, social and cultural rights.

**MENON:** But what do you exactly mean by these rights in a free market economy, what does such a right entail? Does it mean that the State is duty bound to provide a basic floor, economic and social floor, for all its people? And if so, would that not interfere with the markets on which these societies are structured?

**ALSTON:** The role of the State really only comes in as a last resort. Yes, the State is obligated to make sure that no one starves to death, that no one dies for lack of medical treatment. But it's entirely compatible for the basic realization of those rights to occur through market mechanisms. But there are always people, in every country, who can simply not satisfy their own basic rights. There are million of girls who don't get access to education. Not usually because of a lack of resources, but because it's considered that there is no point in educating them. After all, they are only girls. Governments can not plead the problems of globalization, lack of resources or whatever, for their failure to ensure those basic rights to every individual.

**BASSIR POUR:** Now you mentioned the United States, but I understand that there are other industrial countries who fall short of respecting these rights of individuals. The...Great Britain for example, how have they fared?

**ALSTON:** Well, the United States is special because it is the only Western country which has not ratified this Covenant, it's the only country basically which continues to oppose efforts to promote these rights. Which is odd since they are part of the package in the Universal Declaration of Human Rights. Other Western countries...

**LITTLEJOHNS:** And Mrs. Roosevelt, of course, was a prime mover of the whole enterprise, wasn't she?

**ALSTON:** And indeed. And in fact the Economic, Social and Cultural rights came to the Universal Declaration through proposals by American groups, the American Moore Institute, building on the State of the Union message of Franklin Roosevelt, in 1944. That's the immediate origin within the Universal Declaration of these rights. So it's a very curious irony that today the U.S. remains outside that consensus. And yet the U.S. itself, of course,

is the one that insist we must respect the Universal Declaration, we must acknowledge its universality, but failure to take up this part of the Declaration is a real problem.

**BASSIR POUR:** But how do you explain that though? Does it depend on different administrations? Why is it?

**ALSTON:** The United States was always able to accept the concept of economic and social rights until 1981. Up until then, there hadn't been any challenge, any problem. Since then, we have seen outcry to opposition during the era of Ronald Reagan and President Bush. Since then, under President Clinton, we've seen a less obvious opposition but none the less, a consistent effort to down grade these rights.

**MENON:** But looking at the reality of the world. Are in fact Americans in any way deprived because of this governmental stance? Does it in fact affect their people?

**ALSTON:** Well....

**LITTLEJOHNS:** Forty one million American don't have health insurance, that surely...

**MENON:** No. We are looking at the reality of the world now. If you look at the continuum of absolute poverty which many countries have, to the richest country in the world, does this philosophical stance, the reluctance to ratify this Covenant, does it actually affect other people in America?

**ALSTON:** I think it makes a huge difference because if you see — take education for example. If we portray the failure to give girls access to primary education as a human rights violation, it's totally different from saying, well there are a lot of girls who don't get to school, but hey, that's life!

**MENON:** But girls don't! That's not... do not girls not get to go to school in the United States?

**ALSTON:** In the United States, the issue of health care, which was heavily debated not so long ago in the U.S., my understanding is that there was a clear tactical decision which had to be made as to whether the proposals put forward under Hillary Rodham Clinton's leadership were going to be portrayed as based on acceptance of a right to health. There was a presidential commission back in 1993 on this very subject, and they came out and said, we're all in favor of health care, it's a good thing, people should have it but it's not a human right. Now what you're doing then is sending the message that this is not a clear priority. Governments, Congress, can adopt policies which are incompatible with ensuring access to health care because they are not violating a human right.

**LITTLEJOHNS:** Is it a human right in the Declaration?

**ALSTON:** There is.

**LITTLEJOHNS:** So, so, the United States is arguing against the Declaration, which is signed although it is not ratified.

**ALSTON:** They would simply argue that this is subject to available resources and that they do their best, etc. But yes, in fact I would say that the position of the U.S. is not consistent with the Declaration.

**LITTLEJOHNS:** Professor Alston, let's not seem to be picking on the United States.

**BASSIR POUR:** well I asked about the United Kingdom, actually. I didn't get an answer.

**LITTLEJOHNS:** Well then ask about the United Kingdom. Because it was criticised by your Committee. Why was that?

**ALSTON:** It was. But the bottom line unfortunately, for governments is that they all will be criticised. Because the Committee is not – by definition – a good news Committee. We're not there to say well, congratulations, well done, things are great in your country. So, even in countries, we've had Great difficulties with Canada, for example. Canada sees itself as a very developed and a very humane society and it is. But we have nonetheless found that there are areas where things could be done better. And the Canadians have found that quite difficult, saying but hey! we're doing more than almost anyone else. How could you criticise us? It gets back to the....

**MENON:** What for instance do you mean...

**BASSIR POUR:** What are the areas?

**ALSTON:** Well, just let me finish. It gets back to the fundamental point in human rights, that you can't do it comparatively. You can't examine a country like Australia, which is where I come from, and say well, congratulations – conditions are far better than they are in Uganda. That's not the point. The question is whether the conditions in Australia are as good as they could be, given the resources available and the situation generally. To go back, the sort of issues that we would normally look at in developing countries might be fairly complex in terms of access to social security benefits. Might be as basic as the lengthening food lines in front of soup kitchens. If we see that happening, we assume than that there are difficulties, there are problems which the government is not addressing. And if we get information then that there are particular government policies, major cutbacks or whatever, that seem to be directly linked to these problems, then we will ask questions. And we can conclude that a government is not doing enough about housing or whatever.

**BASSIR POUR:** If I can just follow-up. In the developed countries, are most of the problems linked to the immigration, the immigrants in that country? Or is it the nationals of their own country?

**ALSTON:** No, I think there is what the Americans would call an underclass, there is always a group in the lowest stratum of society. The bottom ten, fifteen per cent, that live in poverty. If you take the United Kingdom for example, their own statistics about a poverty

line show that there is that order of magnitude of people living below a reasonable poverty line. And that's true in most developed countries. They do have those statistics which clearly show that our problem is that the quest to be more competitive tends to justify an effort to say we will deal with that later. But first we have to get the economic fundamentals right.

**MENON:** But this actually leads directly into the question that I wanted to ask, which is, the basic premise of all human rights activity is that the responsibility for human rights lies at the national level. But in a period of globalization when there are vast movements of money of technology and people lose jobs here and gain jobs there, and then currency values can fluctuate dramatically, as we have seen in Asia over the last few months. In such a period, doesn't the responsibility for human rights to a large extent evolve into an international level?

**ALSTON:** In part, the international community must assume a bigger obligation in those situations. At the end of the day though, it is the national government which has to ensure that the poorest parts of society are not those that are effected disproportionately.

**MENON:** But for instance, when in a currency devaluation essentially what's happening is that the labor of the devaluating currency country, is losing the value of their labors are being devalued. The national government has no control over it what so ever.

**ALSTON:** I accept that and the situation is going to get worse for everyone virtually within the society. The real challenge of economic and social rights is to make sure that things don't go to such a level to put it crudely, where people are dying or are significantly jeopardized in their livelihood.

**MENON:** But is the international aspect at all evident in your work? Do you ever, ever look at, look up from, from the national situation and say hey look, this country just spent twelve thirteen per cent devaluation and lost all of its capacity to import food.

**ALSTON:** We would say that when the International Monetary Fund for example, negotiates a bail out package, as popularly called, they should have a component in there. Which is designed to ensure that whatever else happens, however much stringency austerity has to be imposed, or has to be suffered, the poorest of the poor will be protected. So there will be some sort of safety net built into that package.

**MENON:** Are you working with the IMF only?

**ALSTON:** No we are not. We are urging that this be done but the IMF has not shown any preparedness at this stage to discuses these rights or to change its approach. I believe that's got to come.

**LITTLEJOHNS:** But the World Bank you say, has improved its ways a bit.

**ALSTON:** The World Bank is starting to talk much more openly about human rights. For many years they were paranoid, to put it harshly, about human rights. They saw the opportunities for political manipulation of their agenda and they resisted all discussions.

**BASSIR POUR:** Should human rights be a condition?

**LITTLEJOHNS:** Where out of time. Professor Alston that's all the time we have. Thank you for being with us on this edition of **World Chronicle**. Our guest today has been Professor Philip Alston, Chairman of the United Nations Committee on Economic, Social and Cultural Rights. He was interviewed by Bhaskar Menon of *International Documents Review* and Afsane Bassir Pour of *Le Monde*.

I'm Michael Littlejohns, thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.